

Attachment 2

Region IV comments on the subject SRM on Strategic Plan Goals involving both NRC and State activities are discussed below.

1. We do not believe any additional changes to the strategic and performance goals are needed beyond those already recommended in the information sent to All Agreement States.
2. We believe that the goals should continue to be national goals, but it would be desirable to be able to report the contribution to each goal from Agreement State activities and from NRC activities. This might give us an indication of problems in NRC or Agreement State programs that warrant additional review or analysis.

Thank you for the opportunity to comment.

Dwight

The State of Utah comments are as follows:

1. No modifications are needed to the current set of strategic or performance goals.
- 2.. In terms of separate subgoals for NRC and Agreement States, they should not be subdivided. It is best to keep working on NRC/Agreement State relationships as a partnership effort to control sources of radiation. Performance numerical metrics for NRC alone, Agreement States collectively, or Agreement States individually may result in a potential for "fingerpointing."
3. Any additional reporting by the States is a resource concern from the standpoint of having to develop new databases or modify the existing database to satisfy whatever the reporting criteria may be in the future.

This is in response to your request for comments on national materials performance goals and measures (STP-01-012). We have reviewed the information provided and conclude that we should be focusing on a single "national materials program", not two or more subsets. Since our regulations must be compatible and our programs adequate, there seems to be no reason to segregate Agreement State and NRC results. We also conclude that the numerical goals (some of which we believe were set based solely on NRC licensee experience) should be adjusted to reflect the total national licensee experience (NRC plus Agreement State data).

With regard to our recommendation for a single set of performance goals and measures, please note that most of the goals are "zero" or very low numbers compared to the number of licensees represented. This means that separating the numbers could lead to the appearance of greater variations from year to year for any of the subsets than warranted by the actual variation of the whole. For instance, NRC could report 2 cases of malevolent use one year,

and one case the next, with the Agreement States reporting one the first year and two the next. There is no change in the total for each year, yet it could be argued there was a 100% increase in malevolent acts in the Agreement States and "only" a 50% improvement in the NRC states. With the small numbers in use as goals, a common reporting level makes the most sense.

The numerical goals themselves should reflect our national experience in order to be reasonably achievable. In this regard, each measure should be reviewed using the final update of NMED to assure that numerical goals are set neither too high nor too low. This accounting should be done after the Agreement States responses to STP-00-081 are entered into the NMED.

Thank you for the opportunity to comment.

Oregon recommends that subgoals be established for licensees in States that are regulated by the NRC and Agreement States that are equal goals for both the NRC and Agreement States.

Oregon recommends no changes and has no comments regarding the Strategic Measure portion (tier) of the Materials Performance goals.

For the Goal 1 Performance Measures tier, Oregon requests that you include the following comments:

S1. "No more than 350 losses of control of licensed material per year."

We recommend changing to: "No more than a total of 150 losses of control of licensed material per year with a subgoal of no more than 5 losses of control of licensed material per year per Agreement State or NRC regulated State."

S2. No comments.

S3. "No more than 20 events per year....."

We recommend changing to: "No more than 25 events per year resulting in radiation overexposures from radioactive material that exceed applicable regulatory limits with subgoal of no more than 1 event per Agreement State or NRC regulated State. "

S4. "No more than 45 medical events per year."

We recommend changing to: "No more than 50 medical events per year with a subgoal of no more than 2 medical events per Agreement State or NRC regulated State."

S5. "No more that 40 releases per year to the environment of radioactive material from operating facilities that exceed the regulatory limits."

We recommend changing to: "No more that 25 releases per year to the environment of radioactive material from operating facilities that exceed the regulatory limits with a subgoal of no more that 1 release per year to the environment per Agreement State or NRC regulated State."

S6., S7., and S8. - No comments.

Response to George Deegan's February 21, 2001 e-mail regarding Strategic Plan goals

Region III DNMS' position is that we definitely should not have separate submetrics for individual Agreement States and Regions. Statistics can be very misleading with diverse programs, in particular, some very small states.

As our Agency focus is moving to a National materials program, we think it is appropriate to combine all of the statistics into one basket. Doing so means, however, that we may be judged on something that we have very little regulatory impact or chance of preventing.

March 30, 2001

Paul Lohaus, Director
Office of State and Tribal Programs
U. S. Nuclear Regulatory Commission

Dear Mr. Lohaus:

This is in response to STP-01-012, "Request for Comment on Materials Performance Goals and Measures."

In keeping with the work being done by the National Materials Program Working Group in defining a national materials program, the situation that would have represented a true national effort would have been for the NRC and the states to have collaborated on both the performance goals and the measures. As it now stands, NRC has developed its own strategic plan, including goals and measures, as have the individual states. In Texas, our strategic plan, goals, and measures have been in place for many years. The outcomes are evaluated annually and the results reported the Legislative Budget Board. Any change in our plan, goals, or measures requires approval from the Legislative Budget Board.

The four NRC performance goals are very broad in scope and represent concepts that we can support. However, we have several questions as to how the numerical goals would be evaluated, since they represent an entirely separate set of performance measures than we are currently required by to report. We recognize that the numerical performance measure goals were developed based on data from the Nuclear Materials Events Database (NMED), including events reported by the states. Regardless of whether the numerical performance measure goals are evaluated collectively or individually for each Agreement State, what is the consequence for not meeting the goals? Will each evaluation and potential consequence be covered under the IMPEP review?

Therefore, our main concern is not whether the numbers are subdivided, but the consequences for not meeting a numerical goal. We appreciate the opportunity to provide comments. If you have any questions, please contact me or Cindy Cardwell of my staff.

Sincerely,

Richard Ratliff, P.E., Chief
Bureau of Radiation Control
Texas Department of Health

In response to STP-01-012 the following comments are offered:

1. The Agreement States and the NRC are a team to regulate and improve radiation safety throughout the United States. Accordingly, there should be one goal and the goal should be subdivided between Agreement States (collective) and the NRC.

2. It is recognized that events will occur and that some quantifiable goals/measures are necessary to assess performance; however, as we discussed this morning, I have some difficulty with the measures that have been established. What are we really trying to accomplish? Consider S7---What does it really measure? Could more regulations have prevented an event? Probably not. Also, responding to a question from a State Senator, or County Judge, or citizen-- are 3 or 4 attempted malevolent uses of material considered acceptable? Certainly not. It is not more than 5! What is the true basis for the 5? I know this is not the correct approach, but I also know these questions will be thought of and will be asked. If 7 events occur, what happens? How will the program be judged? What does it mean? How will it be explained to the public which we serve? I believe it would be difficult to judge a regulatory program for random events that may not have observable precursors or indicators, or, over which the Agency has no direct control (short of continuous presence with the individual by the Agency). Also, human error will occur and cannot be prevented by regulations.

3. Another comment has been received from Division staff: "Are the States and NRC being set up for failure"? As noted in Paragraph 2, above, if an event occurs outside the control of the Agreement State or the NRC, the annual measure may be exceeded--and the Agreement States or NRC (or both) will not meet its goal and be considered "failed" in that measure. However, the best regulatory effort could not have prevented a "stupid" act or intentional violence.

4. Will all types of Radioactive Material Licenses be included in the Agreement State goal?

5. As we also discussed in our conversation, I do not have an alternative solution, yet. Realistic and measurable goals (which are meaningful) are difficult.

If you have questions, please contact me.

David D. Snellings, Jr.

Thanks for the reminder. I would agree with RIII's comment that we should not pursue separate subgoals for the NRC programs and AS programs---public confidence is really based on the national program and our metrics should be reflective of that.

On the specific performance measures, I have some comments. The FY 2000 Performance and Accountability report lists performance against measures. Specifically,

On S1, we reported 227 and 201 actual losses of control of licensed material in FY 99 and 00 respectively, against a goal of 350. While there's insufficient data to suggest a downward trend, it appears to me that operational experience warrants a revision of the goal, at least down to 300 and possibly lower than that. This would still leave a comfortable margin to avoid exceeding the goal.

S3 Do we really want to double the metric on overexposures. In FY99 we had 26 and in FY00 we had 11----doesnt seem to support the proposed change.

S5 Agree with the change, based on operational experience and this supports my position on S1 above.

Give me a call if you have questions

George

I thought we had replied - forgive me. We agree with RIII's approach - that it would be difficult to determine how to split up the metrics. Given that RIV has more radiographers, should they be allocated more overexposures? Given we have more eye applicators, should we be allocated more misadministrations? I think we likely would spend more time separating out metrics than warranted. But if there were some simple, fair way to do it (perhaps try a pilot next FY?), then our position could be changed.

Rosetta: Lucia Lopez is putting all of the paper and its attachments into ADAMS as we go final. I do not have the Illinois comments electronically. Only a hard copy. Could you send me and her an electronic version of that April 5 comment for inclusion in Attachment 2? Thanks.

From: jake.jacobi@state.co.us
To: <rov@nrc.gov>
Date: 3/28/01 9:13PM
Subject: STP-01-012

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We concur with the comments of Terry Frazee regarding performance goals and measures (STP-01-012). As the states and the NRC move toward a National Materials Program, it is appropriate that we are collectively evaluated by unified criteria.

We also believe future performance and numeric goals should be established, not just by soliciting input from states, but that the regulatory programs, states and the NRC, should jointly develop them in partnership.

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CC: <rad_rap@topica.com>

From: Rosetta Virgilio
To: Terry, Frazee,
Date: 3/20/01 8:52AM
Subject: Re: STP-01-012

Thanks for the response, Terry.

>>> "Frazee, Terry" <Terry.Frazee@DOH.WA.GOV> 03/16/01 12:45PM >>>
This is in response to your request for comments on national materials performance goals and measures (STP-01-012). We have reviewed the information provided and conclude that we should be focusing on a single "national materials program", not two or more subsets. Since our regulations must be compatible and our programs adequate, there seems to be

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Thank you for the opportunity to comment.

"This message may be confidential. If you received it by mistake, please notify the sender and delete the message. All messages to and from the Department of Health may be disclosed to the public."

This message from Terry C. Frazee
e-mail terry.frazee@doh.wa.gov

Quick ways to reach me:
Voice = 360-236-3221
FAX = 360-236-2255

Also, visit our Home Page at
<http://www.doh.wa.gov/ehp/rp>

CC: Cool, Donald; Deegan, George; Droggitis, Spiros; Kerr, Kathaleen; Lohaus, Paul; Schlueter, Janet; Schneider, Kathleen

Letter to Paul Lohaus from the State of Illinois, April 5, 2001 ML011360755

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

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George H. Ryan
Governor

Thomas W. Ortziger
Director

April 5, 2001

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OSP

Paul H. Lohaus, Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Re: Request for Comment on Materials Performance Goals and Measures SRM
(STP-01-012)

Dear Mr. Lohaus:

The Illinois Department of Nuclear Safety (Department) hereby submits its response to the above-identified Agreement States letter. The letter requests assistance and input on the current set of national-level strategic and performance goals to determine whether modifications are warranted and whether separate subgoals should be included for those licensees regulated by NRC and those regulated by Agreement States. The Department's comments follow:

1. The third top-tiered strategic measure states, "No events resulting in releases of radioactive material from civilian uses of source, byproduct, or special nuclear materials that cause an adverse impact on the environment." An "adverse impact on the environment" is a very broad term that is subject to a wide variety of interpretations. Clarification on what constitutes an "adverse impact on the environment" would help preclude very minor events from being included in performance monitoring.
2. We are committed to the National Materials Program approach; therefore, there should not be separate subgoals for licensees regulated by NRC and those regulated by Agreement States. Adequacy and compatibility is ensured through the Integrated Materials Performance Evaluation Program (IMPEP) and distinctions between NRC and Agreement States are not warranted.

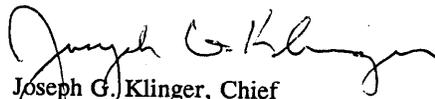


U.S. Nuclear Regulatory Commission
April 5, 2001
Page 2

3. The numerical goals should be readjusted to include all NRC and Agreement State licensee experience, and after all of the Agreement State responses to STP-00-081 are entered into NRC's Nuclear Material Events Database.

Thank you for the opportunity to comment. Please contact me at (217) 785-9930 if you have any questions.

Sincerely,


Joseph G. Klinger, Chief
Division of Radioactive Materials

JGK:kjg

cc: Jim Lynch, State Agreements Officer